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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/519,272

Applicant(s)VAN RIJN, ROBERTUS
CORNELIS MARIA**Examiner**

Patrick Butler

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to Claim 20, line 12's limitation "said body comprises a core" establishes the core as part of the body. Line 14's limitation "is removed by pulling out the core together with said body" indicates that the core and the body are mutually exclusive. Thus, it is unclear whether the body and core are mutually exclusive. For purposes of examination, the Examiner assumes that line 12's limitation was meant as intended and that line 14's limitation is intended to read "is removed by pulling out the core together with said elastomer material." Claims 21-35 are rejected via their dependency.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 20 and 34 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 25, 28, 33, and 49 of copending Application No. 10/519,273.

With respect to Claim 20, Claim 25 of copending Application No. 10/519,273 teaches providing a concrete part having a cavity which extends from an outer wall thereof (a method for arranging engagement means in a concrete part; arranging said body at the formwork surface extending from side of said formwork surface into said formwork) placing an elastomers material body into a framework (providing a body whose exterior comprises an elastomeric material; providing a formwork; comprises a supporting surface; self-supporting; secured against said formwork) where the elastomeric material body can be removed from the concrete by being elastically reduced (with mechanical properties such that there is a considerable reduction in the external diameter at removal from the concrete; encasing said body in concrete material and removing from the concrete after setting), detaching said formwork (removal of the formwork), the cavity accommodating a metal part into the screw thread arranged in said cavity, which necessarily requires a similar shape in the elastomeric body (said body being elongate and is removed from the concrete in its longitudinal direction and is

provided with a projection which, at a distance from its end located at the boundary surface of the concrete, is positioned transversely with respect to the longitudinal direction and leaves behind a non-release recess in the concrete after setting, which recess comprises securing means for an engagement part; wherein said supporting surface is at a first extremity of said body and said projection is provided at a second opposite extremity of said body), and screwing metal into a screw thread arranged in said cavity (engagement part which is then fitted into the concrete). Claim 33 of copending Application No. 10/519,273 claims the body has a core made from a material with a higher tensile strength than its wall is provided with a supporting surface and is self supporting (wherein said body comprises a core, wherein said core is relatively rigid). Alternative to Claim 33 of copending Application No. 10/519,273, Claim 49 of copending Application No. 10/519,273 also claims that the body comprises a core with an elastomer coating arranged around it (wherein said body comprises a core, wherein said core is relatively rigid).

Claims 25, 33, and 49 of copending Application No. 10/519,273 claim the claimed invention except that Claim 49 of copending Application Number 10/519,273 claims removing the core and body separately rather than removing the core and body together. It would have been obvious to one having ordinary skill in the art at the time the invention was made to remove the core and body together, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

With respect to Claim 34, Claim 28 of copending Application No. 10/519,273 teaches that the part is poured in a factory remote from its final destination (wherein said concrete part is moved to the building site after said recess has been put in place).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-22, 24-27, 29-33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over S.T.U.P. (Belgium Patent No. 502,991, translation relied upon for text citation) in view of Murphy et al. (US Patent No. 1,157,895).

With respect to Claim 20, S.T.U.P. teaches creating a cavity with truncated cone sections in concrete (a method for arranging engagement means in a concrete part) (see page 11, second full paragraph and fig. 16). S.T.U.P. teaches placing a core 1 and shaping rod 3 inside from the side of a mold 8, 9, 10 (providing a formwork; arranging said body at the formwork surface extending from one side of said formwork surface into said formwork; wherein said supporting surface is at a first extremity of said body) (see page 9, first full paragraph and fig. 13) with the core 1 made of rubber (providing a body whose exterior comprises an elastomeric material) (see paragraph bridging pages 4 and 5). The shaping rod 3 is steel and is held in place in the mold with the rod

(wherein said body comprises a core; wherein said core is relatively rigid; comprises a supporting surface; self-supporting; secured against said formwork) (see fig. 13).

Concrete is poured and cured around the core 1 (encasing said body in concrete material and removing from the concrete after setting) (see page 1 first paragraph through page 2, first full paragraph), the deformable rod 3 and elastic core 1 are removed from the mold with one containing the other (removing it from the concrete after setting; is removed by pulling out the core together with said elastomer material from said concrete) (see paragraph bridging pages 3 and 4), by a pulling force which reduces the deformable rod's 3 transverse cross section (said body being elongate and is removed from the concrete in its longitudinal direction; with mechanical properties such that there is a considerable reduction in the external diameter at removal from the concrete; encasing said body in concrete material and removing from the concrete after setting) (see page 3, first full paragraph). The mold is taken apart (removal of the formwork) (see paragraph bridging pages 9 and 10) and cables 14 are then inserted (engagement part which is then fitted into the concrete) (see paragraph bridging pages 9 and 10 and page 10, first full paragraph). The cavity is formed with truncated cone sections (is provided with a projection which, at a distance from its end located at the boundary surface of the concrete, is position transversely with respect to the longitudinal direction and leaves behind a non-release recess in the concrete after setting, which recess comprises securing means for an engagement part; said projection is provided at a second opposite extremity of said body) (see page 11, second full paragraph and fig. 16).

Although S.T.U.P. teaches making the elastic core's 1 surface to correspond to surface of the formed void to the desired surface to be produced (see page 3, second full paragraph) and producing truncated cone sections (see page 11, second full paragraph and fig. 16), S.T.U.P. does not expressly teach that the securing means formed by the projections are for the engagement part fitted into the concrete.

Murphy teaches creating cavities in concrete walls the shape of a bolt 10 (see page 1 of text, lines 76-81), that the bolt has a spiral rib or thread 11 (see page 1 of text, lines 31-42), and that the bolt may be replaced in the insert (body being elongate and is removed from the concrete in its longitudinal direction and is provided with a projection which, at a distance from its end located at the boundary surface of the concrete, is positioned transversely with respect to the longitudinal direction and leaves behind a non-release recess in the concrete after setting, which recess comprises a securing means for an engagement part which is then fitted into the concrete; said projection is provided at a second opposite extremity of said body) (see page 1 of text, lines 81-84).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Murphy's mold insert or cavity design in the method of forming a cavity in S.T.U.P. in order to provide a threaded opening for attachment to the molded part (see Murphy, title).

With respect to Claim 21, Murphy teaches creating cavities in concrete walls the shape of a bolt 10 (see page 1 of text, lines 76-81) and that the bolt has a spiral rib or thread 11 (projection comprises a continuous surface designed in such a manner that it is able to absorb both tensile and compressive forces) (see page 1 of text, lines 31-42).

With respect to Claim 22, Murphy teaches creating cavities in concrete walls the shape of a bolt 10 (see page 1 of text, lines 76-81), that the bolt has a spiral rib or thread 11 (securing means comprise a screw recess in the concrete material) (see page 1 of text, lines 31-42), and that the bolt may be replaced in the insert (the engagement part is designed accordingly) (see page 1 of text, lines 81-84).

With respect to Claim 24, S.T.U.P. teaches that the cavity is formed with truncated cone sections (securing means are arranged on/in front of the said body, which securing means remain in the recess when said body is removed) (see page 11, second full paragraph and fig. 16). Alternatively, Murphy teaches that the bolt 10 carries a helical strip 12 designed to be anchored as an insert in a concrete wall (securing means are arranged on/in front of the said body, which securing means remain in the recess when said body is removed) (see page 1 of text, lines 31-42).

With respect to Claim 25, Murphy teaches creating cavities in concrete walls the shape of a bolt 10 (see page 1 of text, lines 76-81) and that the bolt may be replaced in the insert (engagement part) (see page 1 of text, lines 81-84) for an anchor (see title), which would be a component for hoisting (comprises hoisting means).

With respect to Claim 26, S.T.U.P. teaches forming a U-shaped cavity (that the cavity is open at both ends at the same boundary surface of the concrete part and is U-shaped) (see page 6, last paragraph and fig. 7).

With respect to Claim 27, Murphy teaches creating cavities in concrete walls the shape of a bolt 10 (see page 1 of text, lines 76-81) and that the bolt may be replaced in

the insert (engagement part) (see page 1 of text, lines 81-84), which would adjust the wall to fix an anchor (comprises an adjustment bolt).

With respect to Claim 29, S.T.U.P. teaches using a core 1 with sufficient internal room to contract around an internal shaping rod 3 (said core, because of its shape and configuration gives space to the wall thereof) (see paragraph bridging pages 3 and 4).

With respect to Claim 30, S.T.U.P. teaches removing the internal shaping rod 3 before the core 1 (core is separated from the elastomeric material when the body is removed from the concrete) (see paragraph bridging pages 3 and 4).

Alternately, if it is held that S.T.U.P. discloses the claimed invention except for removing the rod 3 from the core 1 after their removal from the mold, then S.T.U.P. teaches removing the internal shaping rod 3 before the core 1 before removal from the mold (see paragraph bridging pages 3 and 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to removing the rod 3 from the core 1 after their removal from the mold, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

With respect to Claim 31, S.T.U.P. teaches supporting a series of cores 1 with a mold (providing a series of bodies which are secured to a common carrier) (see page 8, second full paragraph and fig. 11).

With respect to Claim 32, S.T.U.P. teaches supporting a series of cores 1 with a mold and forming blind bores (a series of engagement surfaces is arranged in a concrete part which extend from an outer wall thereof, comprising the steps of placing a

series of bodies into the formwork, wherein each cavity comprising a blind bore) (see page 8, second full paragraph and figs. 11 and 16).

With respect to Claim 33, S.T.U.P. teaches creating a cavity with truncated cone sections in concrete (a securing means extends over the entire extent of the concrete part in the transverse direction) (see page 11, second full paragraph and fig. 16). Moreover, Murphy teaches creating cavities in concrete walls the shape of a bolt 10 (see page 1 of text, lines 76-81), that the bolt has a spiral rib or thread 11 (securing means extends over the entire extent of the concrete part in the transverse direction) (see page 1 of text, lines 31-42). Moreover, Murphy teaches that the bolt 10 carries a helical strip 12 designed to be anchored as an insert in a concrete wall (securing means extends over the entire extent of the concrete part in the transverse direction) (see page 1 of text, lines 31-42).

With respect to Claim 35, S.T.U.P. teaches that the cores may be pulled from the concrete (see paragraph bridging pages 3 and 4), which could be done by hand.

Claims 20, 23-25, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over S.T.U.P. (Belgium Patent No. 502,991, translation relied upon for text citation) in view of Tye (US Patent No. 4,018,470).

With respect to Claim 20, S.T.U.P. teaches creating a cavity with truncated cone sections in concrete (a method for arranging engagement means in a concrete part) (see page 11, second full paragraph and fig. 16). S.T.U.P. teaches placing a core 1 and shaping rod 3 inside from the side of a mold 8, 9, 10 (providing a formwork; arranging said body at the formwork surface extending from one side of said formwork surface

into said formwork; wherein said supporting surface is at a first extremity of said body) (see page 9, first full paragraph and fig. 13) with the core 1 made of rubber (providing a body whose exterior comprises an elastomeric material) (see paragraph bridging pages 4 and 5). The shaping rod 3 is steel and is held in place in the mold with the rod (wherein said body comprises a core; wherein said core is relatively rigid; comprises a supporting surface; self-supporting; secured against said formwork) (see fig. 13). Concrete is poured and cured around the core 1 (encasing said body in concrete material and removing from the concrete after setting) (see page 1, first full paragraph), the deformable rod 3 and elastic core 1 are removed from the mold with one containing the other (removing it from the concrete after setting; is removed by pulling out the core together with said elastomer material from said concrete) (see paragraph bridging pages 3 and 4), by a pulling force which reduces the deformable rod's 3 transverse cross section (said body being elongate and is removed from the concrete in its longitudinal direction; with mechanical properties such that there is a considerable reduction in the external diameter at removal from the concrete; encasing said body in concrete material and removing from the concrete after setting) (see page 3, first full paragraph). The mold is taken apart (removal of the formwork) (see paragraph bridging pages 9 and 10) and cables 14 are then inserted (engagement part which is then fitted into the concrete) (see paragraph bridging pages 9 and 10 and page 10, first full paragraph). The cavity is formed with truncated cone sections (is provided with a projection which, at a distance from its end located at the boundary surface of the concrete, is position transversely with respect to the longitudinal direction and leaves

behind a non-release recess in the concrete after setting, which recess comprises securing means for an engagement part; said projection is provided at a second opposite extremity of said body) (see page 11, second full paragraph and fig. 16).

Although S.T.U.P. teaches making the elastic core's 1 surface to correspond to surface of the formed void to the desired surface to be produced (see page 3, second full paragraph) and producing truncated cone sections (see page 11, second full paragraph and fig. 16), S.T.U.P. does not expressly teach that the securing means formed by the projections are for the engagement part fitted into the concrete.

Tye teaches making the anchor to a slab interact with a pick-up insert 12 that allows the T-head insert to engage internal thrust surfaces 38 (which recess comprises a securing means for an engagement part which is then fitted into the concrete) (see col. 8, line 45 through col. 9, line 11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Tye's anchor shape as the cavity shape in S.T.U.P. because the lock is a well-know anchor for lifting concrete slabs and because the lock transfers the vertical load without bending or twisting and causing resultant failure (see Tye, col. 1, lines 61 through col. 2, line 43). Thus, as combined, S.T.U.P.'s core 1 is provided with a projection which, at a distance from its end located at the boundary surface of the concrete, is positioned transversely with respect to the longitudinal direction and leaves behind a non-release recess in the concrete after setting and said projection is provided at a second opposite extremity of said body.

With respect to Claim 23, Tye teaches making the anchor to a slab interact with a pick-up insert 12 that allows the T-head insert to engage internal thrust surfaces 38 (see col. 8, line 45 through col. 9, line 11), which is at least two bayonet connections.

With respect to Claim 24, S.T.U.P. teaches that the cavity is formed with truncated cone sections (securing means are arranged on/in front of the said body, which securing means remain in the recess when said body is removed) (see page 11, second full paragraph and fig. 16). Alternatively, Tye teaches that a body 15 remains in the concrete (securing means are arranged on/in front of the said body, which securing means remain in the recess when said body is removed) (see figs. 4 and 5 and page 3, lines 54-61).

With respect to Claim 25, Tye teaches making the anchor to a slab interact with a pick-up insert 12 that allows the T-head insert to engage internal thrust surfaces 38 (engagement part comprises hoisting means) (see col. 8, line 45 through col. 9, line 11).

With respect to Claim 33, Tye teaches that a body 15 is tied to reinforcing bars 64 in the concrete form (wherein said securing means comprise a metal part which absorbs tensile and or compressive forces and extends over the entire extent of the concrete part in the transverse direction) (see col. 7, lines 29-49).

Claims 28 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over S.T.U.P. (Belgium Patent No. 502,991, translation relied upon for text citation) in view of Murphy et al. (US Patent No. 1,157,895) as applied to Claims 20-22, 24-27, 29-33, and 35 above, and further in view of Mess (US Patent No. 4,074,499).

With respect to Claim 28, although S.T.U.P. in view of Murphy teaches creating a cavity in concrete (see S.T.U.P., page 11, second full paragraph and fig. 16) and that a bolt may be placed in the cavity (see Murphy, page 1 of text, lines 81-84), S.T.U.P. does not appear to expressly teach that the bolt comprises concrete material.

Mess teaches that the concrete hole is filled after use to disguise the hole (see col. 1, lines 33-43), which would necessarily form a concrete bolt with the hole (bolt comprises concrete material).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to fill the used hole with concrete as taught by Mess in the process of forming a hole as taught by S.T.U.P. in order to disguise the hole (see Mess, col. 1, lines 33-43).

With respect to Claim 33, S.T.U.P. teaches creating a cavity with truncated cone sections in concrete (a securing means extends over the entire extent of the concrete part in the transverse direction) (see page 11, second full paragraph and fig. 16). Moreover, Murphy teaches creating cavities in concrete walls the shape of a bolt 10 (see page 1 of text, lines 76-81), that the bolt has a spiral rib or thread 11 (securing means extends over the entire extent of the concrete part in the transverse direction) (see page 1 of text, lines 31-42). Moreover, Murphy teaches that the bolt 10 carries a helical strip 12 designed to be anchored as an insert in a concrete wall (securing means extends over the entire extent of the concrete part in the transverse direction) (see page 1 of text, lines 31-42).

Moreover, Mess teaches that the plug 20 is secured against a coil 11 with legs 12 having the opposite shape to accommodate a threaded bolt (securing means extend over the entire extent of the concrete part in the transverse direction) (see col. 4, lines 4-50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Mess's coil 11 with legs 12 on S.T.U.P.'s shaping core 1 or Murphy's bolt 10 in order to provide an attachment for hoisting means (see Mess, col. 1, lines 12-17).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over S.T.U.P. (Belgium Patent No. 502,991, translation relied upon for text citation) in view of Murphy et al. (US Patent No. 1,157,895) as applied to Claims 20-22, 24-27, 29-33, and 35 above, and further in view of Krauss (German Patent No. DE 43 24 522 C1, machine translation relied upon for text citation).

With respect to Claim 28, although S.T.U.P. in view of Murphy teaches creating a cavity in concrete (see S.T.U.P., page 11, second full paragraph and fig. 16) and that a bolt may be placed in the cavity (see Murphy, page 1 of text, lines 81-84), S.T.U.P. does not appear to expressly teach that the bolt comprises concrete material.

Krauss teaches adding concrete 6 around a reinforcing bar 5 in a block's central passage 4 (see page 3, second full paragraph and fig. 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Krauss's concrete around reinforcing bar in concrete holes of S.T.U.P. in order to simplify forming large elements (see page 1, paragraphs 3-5).

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over S.T.U.P. (Belgium Patent No. 502,991, translation relied upon for text citation) in view of Murphy et al. (US Patent No. 1,157,895) as applied to Claims 20-22, 24-27, 29-33, and 35 above, and further in view of Reay (US Patent No. 5,660,020).

With respect to Claim 34, S.T.U.P. teaches creating a cavity in concrete (see S.T.U.P., page 11, second full paragraph and fig. 16) as previously described. However, S.T.U.P. does not appear to expressly teach that the concrete part is moved to the building site after said recess has been put in place.

Reay teaches that a building panel may be made on or off site (see col. 2, lines 10-23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make a panel off site as taught by Reay in the process of making a panel as taught by S.T.U.P. in order to centralize construction and process control.

Response to Arguments

Applicant's arguments filed 12 February 2009 have been fully considered but they are not persuasive.

Applicant argues with respect to the 35 U.S.C. § 112, second paragraph, rejections. Applicant's arguments appear to be on the grounds that:

1) Applicant's correction of Claims 22, 23, and 27 obviate the 35 U.S.C. § 112, second paragraph, rejections.

Applicant argues with respect to the 35 U.S.C. § 102(b) rejections. Applicant's arguments appear to be on the grounds that:

2) Mess does not secure the body is secured against a supporting surface and having a projection located as indicated in the newly added amendment to Claim 20 and the previously claimed limitation of removing the core and body together (The Examiner assumes argument with respect to Claim 20 was intended rather than cancelled Claim 1).

3) S.T.U.P. does not teach the placement of inserts before the concrete is poured.

The Applicant's arguments are addressed as follows:

1) In view of Applicant's correction of Claims 22, 23, and 27, the Examiner withdraws the previously set forth 35 U.S.C. § 112, second paragraph, rejections as detailed in the Claim Rejections –35 U.S.C. § 112 section of the Office Action dated 12 November 2008. However, a new 35 U.S.C. § 112, second paragraph, rejection is made of record as indicated above.

2) Applicant's arguments with respect to the rejection over Mess have been considered but are moot in view of the new ground(s) of rejection over S.T.U.P. (Belgium Patent No. 502,991, translation relied upon for text citation) in view of Murphy et al. (US Patent No. 1,157,895) and S.T.U.P. (Belgium Patent No. 502,991, translation relied upon for text citation) in view of Tye (US Patent No. 4,018,470).

3) As recited above, S.T.U.P. teaches concrete is poured and cured around the core 1 (encasing said body in concrete material and removing from the concrete after setting) (see page 1 first paragraph through page 2, first full paragraph).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Butler whose telephone number is (571) 272-8517. The examiner can normally be reached on Mon.-Thu. 7:30 a.m.-5 p.m. and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. B./
Examiner, Art Unit 1791

/Christina Johnson/
Supervisory Patent Examiner, Art Unit 1791